(3)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR

Writ Petition No. 2352 of 2001

BHAJANLAL AGRAWAL, son of Late Rammanorath Lal Agrawal, resident of New Shantinagar, Raipur (CG)

PETITIONER

VERSUS

1. STATE OF CHHATTISGARH, through the Collector Raipur.
2. THECOLLECTOR District Raipur (CG)
3. SHRI A.K. VERMA, Special Land Record, officer, Collectorate Raipur.
4. THE REVENUE INSPECTOR, Land Diversion Pandri Area, P.C. NO Raipur.

2354/01
C R Sahu
3/11/01

RESPONDENTS

WRIT PETITION UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA FOR THE ISSUANCE OF WRITS IN THE NATURE OF PRHOIBITION MANDAMUS ETC. AND/ OR FOR ORDER(s) AND/ OR FOR THE DIRECTIONS IN THE NATURE OF THE WRITS..

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(150)

आदेश पत्रक

मामला क्रमांक W.P. No. 2352 सन् 2001

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	08.12.2001 Shri B.P.Sharma, learned counsel for the petitioner. Shri Ranveer Singh, learned Government Advocate for the respondent / State. Shri R.S.Jaiswal, learned counsel for the Intervenor who is stated to be the owner of the property. Smt.Sharmila Singhai, learned counsel for another Intervenor who also claims to be an owner of part of the land. Heard. I am not going to touch all those points placed before me. The only point that has been raised before me by Shri R.S.Jaiswal is that impugned order dated 21.09.2000 was issued by the Officer on Special Duty, Land Diversion. The Appellate Authority in the present case is Sub Divisional Officer in terms of section 44 of M.P. Land Revenue Code, 1959. Though, the position of law in this regard is not disputed, Shri B.P. Sharma submits that in fact review was carried out by the Officer on Special Duty behind the back of the writ petitioner and at the instance of S.D.O. Therefore, in such a case where S.D.O. should be said to have already made up his mind on merit, there is hardly any hope for the petitioner to get remedy before the Appellate Authority. In my view, once an appeal is filed, the learned S.D.O. must examine the case on merit and not on any other consideration that	

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too, after allowing parties adequate opportunities of being heard. According to Shri B.P. Sharma, in fact the impugned order was issued mainly based on certain newspaper report, which is highly illegal.

The intervenors pray that they be also allowed to appear before the learned S.D.O. to place their own respective cases. It is open to them to appear before the Appellate Authority who should take appropriate action on request made in this regard. It is contended that power of review is not at all conferred upon the O.S.D. who had passed the impugned order. This submission is controverted on behalf of the State Government in terms of section 51 sub section III. Whether or not there was illegal exercise of power by the O.S.D. should be examined by the Appellate Authority. In fact all points raised before this Court can be raised before the Appellate Authority.

In the result, this petition is disposed of with direction that the petitioner shall appeal before the learned S.D.O. within ten days from to day. On receipt of such appeal, the learned S.D.O. shall proceed to decide the case on merit expeditiously. Delay, if any, is condoned.

Shri B.P.Sharma, learned counsel for the petitioner makes a prayer that certain interim order may be allowed. This aspect should also be examined by the Appellate Authority. However, until the Appellate Authority considers and passes appropriate interim orders, let the parties maintain status quo, as it exists today. In this view of the matter, let the operation of the impugned order dated 21.09.2001

ORPRJ—FS/311—1/2001—50,000.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(51) 52

आदेश पत्रक

मामला क्रमांक W.P. NO. 2352/ सन् 200 |

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	be kept in abeyance, as it existed on 09.11.2001, until the learned Appellate Authority passes appropriate orders in this regard. The petition is accordingly disposed of. **Sd/-** **Chief Justice**	